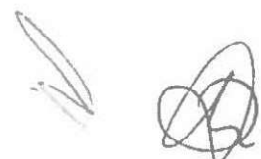

**AFFIDAVIT IN THE SECTION 194 INQUIRY INTO THE REMOVAL OF THE PUBLIC
PROTECTOR, ADV B MKHWEBANE**

I, the undersigned,

NTHORISENG MOTSITSI

do hereby make oath and say that:

1. I am the Executive Manager for Complaints and Stakeholder Management ('CSM') in the Office of the Public Protector ('PPSA').
2. The facts in this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct. Where I make averments not directly within my knowledge, I do so on the basis of information available to me (to which I have referred herein) and I have no reason to doubt the authenticity or accuracy thereof.
3. I have prepared this affidavit at the request of the evidence leaders, and in order to inform the Committee of knowledge that I have which may be relevant to the function it has to discharge.
4. In 1997 I was admitted as an Attorney of the High Court of South Africa. I worked as a Senior Investigator at the PPSA between 1999 and 2004, and as a Chief Investigator between 2004 and 2007. I left the PPSA to join the Department of Home Affairs in 2007.



I re-joined the PPSA as Executive Manager: Complaints and Stakeholder Management in May 2017.

A. COMPLAINTS AND STAKEHOLDER MANAGEMENT


5. The CSM branch has five units: intake; assessment and early resolution inquiries; customer service; remedial action and outreach and stakeholder management.

(i) Intake Unit

6. Complaints are received, processed through the PPSA's registry and given a reference number and complaints are acknowledged. Intake staff are not legally qualified.
7. Complaint resolution officers sift complaints to determine which clearly cannot be considered by the PPSA e.g. complaints over which we have no jurisdiction. All other complaints are then sent on to the Assessment Unit.

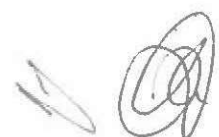
(ii) Assessment Unit

8. The Assessment Unit, comprising 4 assessors, using a standard assessment form does a preliminary analysis of new complaints lodged with the PPSA Head Office, to determine the nature of the complaints and whether complaints fall into Early Resolution ('ER') or are to be transferred to Good Governance and Integrity Unit ('GGI'), the Administrative Justice and Service Delivery Unit ('AJSD') or one of the Provincial Offices. It is based on the nature of the complaint. Provinces may also transfer complaints to Head office or inter-provincially.
9. CSM are responsible for referring complainants to other bodies better suited to handle their complaints, rejecting complaints (for example, where internal remedies are not



exhausted or the complaint is outside of the PPSA's jurisdiction), and for advising complainants to ensure an early resolution of the complaint, i.e., if investigation in relation to the complaint is not required and it can be resolved.

10. In the event of any complaint being referred, rejected or subject to early resolution, a 'closing letter', sometimes referred to as a 'closing report' is issued either by CSM, or at branch level, and no formal report would be considered or signed by the Public Protector ('PP'), and the matter is then "closed" without even reaching head office or any investigative branch.
11. For example, by far the most complaints received by the PPSA are against the Department of Home Affairs and local municipalities. A decision was taken that the PPSA should not itself investigate all early resolution complaints pertaining to service delivery. Instead there is an understanding with the Department of Home Affairs, NSFAS, City of Tshwane that complaints received, though allocated a reference number and entered on a CSM database, would be populated on to a spreadsheet to be provided to the organ of state from time to time. Once the spreadsheet is handed over, the complaint is closed from the PPSA's side, and a closing report will be issued to the complainant, explaining the referral and providing her with the details of the relevant departmental official who will attend to the complaint. Between April and August 2022, the PPSA received 916 such complaints which, though recorded in its database, were referred to the Department of Home Affairs for further investigation and resolution.
12. The PPSA has similar arrangements with other organs of state, including the City of Tshwane and the South African Social Security Agency. This frees up capacity in the AJSD to attend to other complaints.



13. There is an Assessment Committee that considers the output of the assessors. They have a responsibility to consider section 6(9) of the Public Protector Act, i.e. determining whether the complaint is older than 2 years and, if so, making a preliminary determination whether there are special circumstances justifying the PPSA investigating the complaint. If a complaint is older than 2 years, but the assessor thinks that there are special circumstances warranting the PPSA's investigation, the assessor will record those circumstances in the assessment form for presentation to the Assessment Committee. The complainant may even be engaged to determine whether there are any special circumstances.
14. The Assessment Committee makes a determination on whether there are special circumstances that justify the PPSA looking into complaints older than 2 years. However, the investigative branch to whom the complaint is assigned would still need to give consideration to whether there are indeed special circumstances. The appointed investigator may disagree with the Assessment Committee and close the file.
15. Prior to November 2020, the Assessment Unit allocated new complaints to the relevant investigation branches. After November 2020, the allocation function was partially performed by the former Chief Operating Officer ('COO'), Mr Charles Mohalaba, who allocated GGI and AJSD matters to the Head Office Investigation Unit (with the assistance of the relevant Executive Manager: Investigations, and Chief Investigators). CSM, however, remained responsible for the allocation of matters to the respective Provincial Offices.
16. Mr Mohalaba established an Allocations Committee, but this ceased upon his resignation, leaving the allocations again with CSM. The Allocations Committee was

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revived on 1 April 2022 under the leadership of the Acting COO, Ms Lethabo Mamabolo, with the sole purpose of allocating new complaints and investigations to the appropriate PPSA branches.

17. Although there is a general process for allocating new cases to investigators (set out above), in some instances investigators are assigned or allocated new complaints for investigation by the PP directly. There are also own initiative complaints that are registered or third-party complaints referred directly by the PP for registration – and which are then accepted and not subjected to the initial screening processes.

(iii) Customer service

18. The CSM's customer service unit deals with receipt and processing of customer complaints, such as complaints about dissatisfaction with PPSA services e.g. due to delays in finalising of investigations or lack of feedback regarding the complaints lodged. Complaints are also lodged directly with the PP and other PPSA employees which are at times referred to the CSM to resolve.

(iv) Remedial action

19. The Remedial Action Unit has been part of CSM since June 2020 and is aimed at ensuring that the PPSA remedial action is implemented. It monitors implementation and has created and maintains a database for remedial action reports. Prior thereto it was within the PP's Private Office, and later within the CEO's office. It was headed by the Manager: Compliance and when this function was commenced in 2020 as part of CSM there was already a significant backlog of over 250 reports with unimplemented remedial action.



20. The Quarter 1 Report in respect of remedial action compliance was submitted to the Speaker of the National Assembly on 30 June 2022. This summary shows that, in respect of 89 PPSA reports –

20.1. 1% had the remedial action fully implemented;

20.2. 27% had the remedial action partially implemented;

20.3. 62% had the remedial action not implemented;

20.4. 10% were taken on judicial review;¹ and

20.5. 1 report was set aside.

(v) Outreach in the PPSA

21. The PPSA Outreach and Stakeholder Management unit is responsible for maintaining relations with the stakeholders which include the public at large, government departments and local government, community-based organisations, traditional leaders, other ombud offices and other organs of state, to ensure cooperation in efficient resolution of complaints and the implementation of remedial action, and to enhance access to poor and marginalised communities in areas not readily accessible.

22. One of the key objectives of operating outreach programs is to ensure access to PPSA services to the most marginalised members of the community. One way of ensuring this is through outreach, education and public awareness campaigns, as these are more

¹ It did not report on the status of pending cases in detail.



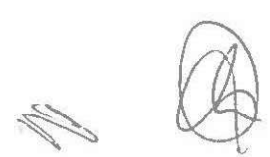
likely to reach communities who are not city-based and do not readily have access to the services of the PPSA or the communications networks that otherwise facilitate such access.

23. Outreach and education functions, in my view, should be a priority for the PPSA. Outreach clinics are hence important. This entails PPSA staff members going to far-flung areas and informal settlements to take complaints and raise awareness by engaging and interacting directly with members of the community. Funding for outreach had to be accessed from and approved by the CEO at Head office, albeit that there was a budget allocated to provinces.
24. In 2017 – when I joined- PPSA undertook to conduct 756 clinics per annum. This entailed 9 provinces conducting 84 clinics per annum, i.e. 7 outreach clinics per province per month. The target was exceeded in the 2017/2018 financial year as 815 outreach clinics were held but the approach did not define clearly where clinics should be held to ensure that accessibility was maximised.
25. In May 2017, as Executive Manager: CSM, I looked at the monthly and quarterly reports from provinces. Taking into account that South Africa has 9 provinces and 278 municipalities (comprising metropolitan, district and local municipalities) with varying populations and varying areas. Given that each province was only being allocated R110,000 per annum, two outreach officers and one motor vehicle, with the latter having to be used for investigations and other administration functions as well, I was of the view that a more focused approach rather than a “one-size fits all” to maximise the use of limited funds was required as provinces had varying needs. The same targets and allocating the same resources – was not necessarily the best way to assist the PPSA to

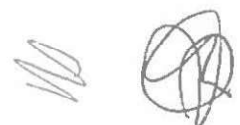


achieve its mandate of being accessible to all: the requirements for Gauteng, for example, are very different to the requirements for the Northern Cape. The approach in existence to outreach was that there was no consideration of the size, population and the socio-economic status of each province.

26. During a planning session held, as far as I can recall, in November 2017, the PPSA developed a new outreach strategy (intended to be implemented over a period of 3 – 5 years) to raise awareness of, and facilitate access to, the PPSA at local level. The first phase of the strategy was for outreach officers to conduct outreach clinics in each metropolitan and district municipality, rather than to continue with the previous approach that did not differentiate between the provinces. Once that goal had been achieved, it was intended that the outreach clinics would expand to local municipalities and later to municipal wards, with the plan being to reach the country's more than 4,400 wards.
27. Due to a lack of financial and human resources (discussed below), the new strategy was implemented conservatively. It was first implemented during the 2018/2019 financial year and continued into the 2019/2020 financial year, when the country was hit by Covid-19 pandemic – which of course materially impacted on implementation.
28. Regarding the PPSA's financial constraints, I annex a copy of a memorandum prepared by the PPSA's Acting Chief Financial Officer ('CFO') to the PP, dated 7 February 2018 (marked "NM1"). It sets out the dire financial situation in which the PPSA found itself and the events that resulted in this situation. Among other things, the Acting CFO referred to the insufficiency of the baseline budgetary allocation to cover the PPSA's financial needs; overspending on employee costs; continued mismatch between the PPSA's



- allocated budget and its core activities; spending on legal costs; and spending on information and communication technology.
29. The Acting CFO concluded that, without immediate additional funds being allocated, the *“PPSA will not be able to deliver on its constitutional mandate and will not be able to continue as a going concern.”*
30. The memorandum recorded that the PPSA senior management – under my leadership as the then Acting Chief Executive Officer (‘CEO’) – had met twice to discuss the budgetary constraints, which led to the formulation of various cost containment measures. It also recorded that there were *“no funds to continue with core activities (outreach programs and investigations which require travel)”* and therefore recommended that the annual performance plan should be suspended.
31. I signed off on the memorandum on 9 February 2018, which was then submitted to the PP. In addition the Acting CFO and I signed a memorandum for submission to the National Treasury on 22 February 2018. A copy is annexed, marked “NM2”. That memorandum sought to justify the PPSA obtaining a bank overdraft facility of R15 million, to address the organisation’s financial needs. It followed the PP’s request to the Minister of Finance to approve the facility for purposes of accessing bridging finance. Among the measures mentioned in the memorandum that the PPSA would use to curb expenditure was the *“suspension of all travel including outreach clinics – the only travel that is allowed is for key and strategic trips and only on a special motivation basis”*. This would of course impact on outreach initiatives.
32. Under the PPSA’s new outreach strategy, the number of planned outreach clinics in 2018/2019 was 208, and actual achievement was 277. During this financial year the



then CEO, Mr Vussy Mahlangu, issued a circular setting out various cost containment measures, including that provincial offices that had already achieved their outreach targets should not hold further clinics.

33. From the PPSA's records, the number of people reached by the PPSA significantly decreased with the imposition of the new policy between the 2017/2018 and 2019/2020 financial years (being the precursors to the Covid-19 pandemic). I set out below the number of people who attended PPSA outreach clinics in the three consecutive financial years:

PROVINCES	2017-2018	2018-2019	2019-2020
Eastern Cape	2678	2350	1325
Free State	1958	534	446
Gauteng	3146	2133	836
KwaZulu-Natal	2103	1150	1188
Limpopo	2456	1112	781
Mpumalanga	1885	433	291
Northern Cape	2031	736	519
North West	3187	729	1258
Western Cape	2155	895	1021
TOTAL	21599	10072	7665

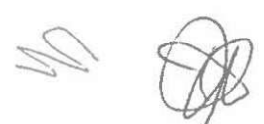
34. In 2019/2020 planned outreach clinic targets were 208 and actual achievement was 237. During this financial year Mr Mahlangu issued another circular setting out cost

containment measures, again indicating that the provincial offices should consider scaling down on outreach clinics if their annual targets were already achieved.

35. In 2020/2021 though there was a planned target of 208, given the Covid-19 pandemic no outreach clinics were held. Outreach efforts were concentrated on more webinars, radio interviews and simulcast, but even so the total number of new complaints received reduced by almost 50% (2019/2020 – 10111 and 2020/2021 – 5108), only marginally increasing in 2021/2022 to 6749.
36. Even before Covid 19, however, radio broadcasts were a component of the PPSA's outreach activities. All outreach channels have limitations but combined, the PPSA can achieve its mandate of being accessible.

B. ACTING CEO

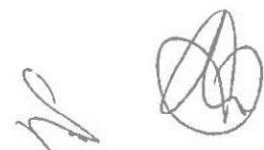
37. After Mr Themba Dlamini left his position as CEO of the PPSA, the PP asked me to assist her by stepping up as Acting CEO until a permanent CEO could be appointed. My acting appointment lasted from mid-December 2017 until March 2018.
38. I accepted the offer on condition that I will not accept any acting allowance. I viewed this opportunity to act as a learning curve, and I was only holding the fort for the CEO who was soon to be appointed. I had not envisaged the stress that would accompany this position and coupled with an oppressive workplace environment in the PPSA, my health deteriorated during in March 2018.
39. The workplace stresses included the following:



- 39.1. Upon my inquiry into the PPSA's financial position, the Acting CFO informed me that the organisation would not be able to pay salaries as from February 2018 (see the memorandum discussed in paragraph 28 above), thus jeopardising the livelihoods of staff. Furthermore, it appeared that the budgetary allocation for 2018/2019 would be insufficient to support the functioning of the institution. Urgent measures had to be taken to ensure PPSA sustainability.
- 39.2. The interactions regarding Ms Cleo Mosana, discussed below, and the expectation that millions of Rand could be spent to remove her from the PPSA whilst the PPSA was already facing a dire financial situation.
- 39.3. There were no adequate governance structures within the PPSA and, in particular, no body where as Acting CEO I could sit and strategize with executive managers about the institution.
- 39.4. As Acting CEO, I was responsible for the PPSA's administrative affairs. Those matters – policies, employee disputes, finances etc – took up almost the entirety of the working day. However, I was also responsible for the institution's investigation work bearing in mind that at the time there was the backlog project also ongoing. That is a full job in and of itself (after my acting stint, the CEO was responsible for administration and a separate COO was appointed to take charge of investigations). Extremely late working nights and weekend work became the norm as I endeavoured to discharge all of these functions but the pressures built up and eventually overwhelmed me.



- 39.5. Ultimately, I felt that there was no real space for a CEO to function as she should. All I did was rush around putting out fires, which left no time for planning, strategizing and implementing policies to realise medium- and long-term objectives.
- 39.6. I brought my concerns to the PP's attention, but no heed was paid to my concerns. By March 2018 I was overwhelmed and had to vacate the CEO's office in April 2018.
40. Upon my return to work in May 2018 after a health scare, I requested to step down as Acting CEO. I resumed management of the CSM Branch and Mr Vussy Mahlangu was appointed as CEO.
- C. ACTING COO**
41. Shortly thereafter, I was requested by the PP to act in the new role of Chief Operating Officer ('COO') and to assist with the management of the investigation branches. I did so from mid-2018 until December 2018. I also made it a condition that so long as I am acting in the position until the appointment of the COO, I required no acting allowance, taking into account the dire financial situation that PPSA was facing, the fact that this post never had a dedicated incumbent, and it needed to be funded before it could be filled.
42. Prior to 2018, the position of COO had never been filled: the former CEO, like me in my capacity as Acting CEO, had been responsible for both PPSA administration and investigations. It was only when Mr Mahlangu was appointed as CEO that responsibility

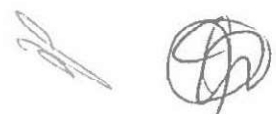
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for the two areas was separated. Thereafter when Yalekile Lusibane became Acting CEO, she too did not take charge of investigations.

43. As Acting COO I was to play a key role in managing the production of reports arising from investigations. Investigation branches that finalised their cases and issued reports was to reach me and only thereafter were they to be forwarded to the PP for approval. In theory this is how it was to happen presupposing that I would have the time and capacity to actually attend properly to the task.

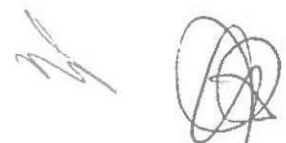
(i) Rushed Reports

44. At the time the PPSA's focus was to bring investigations to an end and to ensure that reports are issued speedily, meaning that less time was available to interrogate the complaints received in accordance with the applicable laws, policies and procedures. Accepting that there were over 4000 cases carried over to the 2018/2019 financial year and a number that remained outside for more than 2 years, I too wanted to ensure that this was cleared.
45. However, what this meant was that in the management meetings that I attended, the focus was on "*what product will be delivered, and when*", rather than on analysing the complaints, establishing the facts, research on relevant legislation and legal prescripts, consideration of relevant case law in favour or against the proposed findings and the intended remedial action to be taken. An inordinate amount of time was spent in meetings chasing and accounting on deadlines when time could and should be spent on improving reports. The focus was to finalise investigations and issue reports, rather than the integrity of the investigation process and the reasonableness and appropriateness



of the reports ultimately issued. These were the priorities on which the PP wanted us to concentrate.

46. Reports that were produced in this manner included the report into the City of Tshwane's prepaid capital meters (sometimes referred to as the "*PEU Report*", after the company, PEU Capital Partners, that was awarded the tender for the meters).
47. On 6 November 2018, Ms Mogaladi (the Executive Manager: AJSD) sent me a draft of the section 7(9) letter in the PEU matter. Her cover email recorded: '*I am still working on the draft and it is still incomplete and I am not happy that it must be sent out.*' A copy of Ms Mogaladi's email is annexed, marked "NM3". As I am aware that this was addressed at length in Ms Mogaladi's evidence, and as she is more familiar with the circumstances, I merely refer to it as an example.
48. I do point out that the PP had been insistent that the aforementioned s 7(9) notice be provided to her. It was at my suggestion that Ms Mogaladi included a "*DRAFT*" watermark, and to provide a copy to the PP so as to indicate that both that Ms Mogaladi was working on the matter and had made progress, but also that the draft was not yet in a position where it could be considered by the PP for signature.
49. The PP was most unhappy. By November 2018, the investigation was still ongoing and section 7(9) notices had not yet been issued. Ms Mogaladi explained the various reasons for the delay in issuing the notices. These included the volume of evidence (more than 40 lever-arch files, as well as affidavits from the court proceedings) and ongoing litigation which essentially dealt with the same issues that the PPSA had been requested to look into. Ms Mogaladi noted that she had hardly been getting any sleep, in an effort to

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progress the investigation. A copy of the email correspondence is annexed marked "NM 4".

50. The PP directed Ms Mogaladi to ignore affidavits or evidence from the court process and focus on the evidence acquired by the PPSA. She refused to grant an extension for the section 7(9) notices and stated that '*I EXPECT THE SECTION 7(9) BY END OF BUSINESS TODAY.*'
51. Ms Mogaladi did not submit the section 7(9) notice as required by the PP. The PP viewed this as executive management undermining her, which she could not tolerate. She directed Mr Mahlangu to serve a '*final written warning or warning*' on Ms Mogaladi, and on me '*for not also ensuring that as supervisor that is done per [her] instruction*'.
52. I pleaded with Ms Mogaladi to submit the section 7(9) notice as a matter of urgency. Ms Mogaladi continued working on the PEU investigation and the required notices. This included engaging with Mr Nemasisi, the PPSA's Senior Manager: Legal Services, regarding the notices. From the email correspondence annexed, marked "NM5", it will be noted that Ms Mogaladi emailed Mr Nemasisi at 03h32 in the morning when she was working to progress the investigation.
53. While I noted to Ms Mogaladi that the investigation had taken a long time to progress, I supported the view that the matter should be properly investigated and that PPSA should discharge its legal obligation to provide implicated persons with an opportunity to respond to the allegations. I suggested that Ms Mogaladi should provide the PP with timeframes for the section 7(9) notices.
54. Ms Mogaladi then sent the following email to me:



"I decided to take this matter offline with you. I am doing everything possible to submit a correct s7(9) letter on this matter and the reality is that we have always been raising the challenges that the same issues are pending in court.

As regards writing a memo to PP I am not sure if at this stage a memo to PP will help, as stated I am really frustrated about this matter and I am doing everything possible to submit. As stated and explained in my email, the delay is not aimed at disrespecting or undermining PP, there are challenges that if not addressed properly will embarrass us and I cannot submit an incorrect letter or to PP, that would be malicious compliance and I cannot do that."

55. I responded as follows:

"My request to update PP on the latest steps to be taken regarding PEU matter is in no way malicious. I just wanted you to inform her that to adhere to the provisions of the PP Act, you will be writing to implicated officials and PP should not expect the s7(9) notice now. From our discussion about PEU and the legal advice given, s7(9) notice will not be issued before December 2018, that is my speculation. For instance, you may need to interview the implicated officials, they might want to see you face to face and, you must give them an opportunity to respond before issuance of the notice. I needed you to disclose this fact so PP would know that this matter has a chance to go way over December 2018. Suggested timelines are in relation to probable tasks that you need to undertake to get to the s7(9).

Due to the pressure given, the CEO wanted me to explain the cause of the delay in issuance of the notices for PEU, uMzimkhulu and EFF and I have provided a written explanation in line with our discussions and the legal advice given. I cannot compel you to issue an incorrect/unlawful notice, PPSA must issue factually correct notices and reports that are of high quality. But my failing to push for issuance of notices / reports has resulted in me getting warnings. I am between a rock and a hard place unfortunately Pona."

56. Ms Mogaladi acknowledged that she would prepare a memorandum for the PP and reiterated that she would avoid '*submitting a section 7(9) letter that I know can easily land us in trouble*'.

57. Despite our genuine commitment to ensuring a thorough investigation in line with the PPSA's mandate, the PP was not interested in considering the abovementioned investigation-related justifications for delays in investigations, notices and reports.

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58. I should also point out that as Executive Manager this would not have been the only case that Ms Mogaladi would be working on. There were a number of other matters that she also had been required to attend to at the same time, other meetings to attend and chief investigators and investigators that would have required her input, apart from her working on the matter. So too was the case with me.

(ii) **Audi letters**

59. The PP would not merely insist that investigation procedures be rushed. She would also require that action be taken when staff did not rush procedures. I mentioned as much to Ms Mogaladi in my email correspondence (see paragraph 55 above).

60. On 20 November 2018 Mr Mahlangu complied with the PP's instruction and issued me a with an *audi* letter. A copy is annexed, marked "NM6". As evident from Mr Mahlangu's letter, it was alleged that I was '*supposed to ensure that the said Section 7(9) is submitted to the Public Protector as per her instruction.*' Furthermore, the PPSA sought to discipline me because I '*accepted Ms Mogaladi's explanation despite the fact that [I was] aware of the Public Protector's deadline where she explicitly indicated that no extension will be granted.*'

61. In effect, Mr Mahlangu was contemplating disciplinary action against me because I had considered Ms Mogaladi's reasons for not complying with the PP's demand, and found them to be reasonable. I remain of the view that Ms Mogaladi's reasons were genuine investigation-based justifications. I did not think it was appropriate to subject me to disciplinary action for "*listening to the other side*", when that quite literally is the point of the *audi* process. This was tantamount to victimisation.



62. I responded to the *audi* letter on 10 December 2018. A copy of my response is annexed, marked "NM7". I was not subject to further disciplinary action in respect of the *audi* letter of 20 November 2018.
63. In my view, *audi* letters can be used as a valuable management tool, as a means of genuinely engaging with an employee who a manager perceives not to have been performing. The exchange can facilitate better understanding, so that the employee understands what is required and the manager understands the challenges the employee is facing (whether personal or professional). Furthermore, the *audi* letter should only be issued after the relevant manager has provided the employee in question with mentoring and training, and the employee has not responded appropriately. This is not the reason or purpose for which *audi* letters were sent – or managers were instructed to send.
64. Under the PP and Mr Mahlangu *audi* letters were tools which invoked the fear of punishment that could ultimately result in a job loss. It matters little whether this occurred or not. These letters were issued even though the PP had been provided with the full explanation of why a work product had not been produced. It was a means to get that explanation in writing as part of a form of disciplinary action, which obviously could be used against you later as *audi* letters were seen as evidence of poor performance and/or a pattern of misconduct, that could be utilised by the PP and/or the CEO as proof in disciplinary proceedings should they wish to institute disciplinary action. This played out in the disciplinary proceedings against Ms Mogaladi, Ms Sekele and the late Mr Madiba.



65. The invocation by the PP and Mr Mahlangu to *audi* letters and the issuing of instructions by the PP orally in meetings that such letters must be issued contributed to the hostile and toxic working environment in the PPSA.
66. Another example of their misconception of the role of *audi* letters relates to Ms Sekele.
- 66.1. On 18 May 2018, the PPSA's communications staff sent the PP and the Deputy PP a media monitoring report. These reports dealt with the media's coverage of the PPSA and PPSA reports. The PP sent me, the Acting Chief of Staff (Ms Linda Molelekoa) and the Senior Manager: Communications (Mr Oupa Segalwe) a request for a briefing memorandum on one of the issues referred to in the report – an investigation in the City of Tshwane.
- 66.2. Ms Lesedi Sekele was the investigator dealing with the complaint. I requested her to draft the memorandum that the PP requested.
- 66.3. Ms Sekele later informed the PP that the matter had not progressed because an administrative assistant had not posted the requisite correspondence. The PP then requested me to deal with this lapse and was concerned that media would discover that the PPSA had failed to deal with the matter.
- 66.4. A copy of the above email correspondence is annexed, marked "NM8".
- 66.5. On 4 June 2018 Mr Mahlangu (the CEO) instructed the Senior Manager: Human Resources, Mr Gumbi Tyelela, to issue disciplinary warnings to a number of PPSA employees, including to Ms Sekele, for allegedly failing to conduct the City of Tshwane investigation promptly and for only discovering



that the abovementioned correspondence had not been sent as a result of media reporting.

- 66.6. In response Mr Tyelela indicated to Mr Mahlangu that Ms Sekele and the other employees could not yet be issued with warnings – they first had to be afforded an opportunity to respond to allegations against them.
- 66.7. Later that day, Mr Tyelela informed me of the instruction from Mr Mahlangu. A copy of his email correspondence is annexed marked "NM9". I did not do so. I was not aware of the circumstances of the alleged transgression, I did not have the relevant background and she did not report to me when the cause of action occurred. I never issue an *audi* to a person who does not report directly to me (because that would interfere with the relevant manager's managerial prerogative), and I never issue an *audi* to a person whose circumstances I do not know, or a person whose behaviour I have not attempted to correct through training, coaching and mentoring.
67. As Acting COO, I felt that I should be a guide to investigators. However, given the PPSA's priorities at the time, I felt that I was required to be more of a whip, threatening them with consequence management (i.e. disciplinary action) in the event of missed deadlines. I had to focus on "*product will be delivered and when*". This is evident from my exchange with Ms Mogaladi discussed in paragraphs 53 – 56 above.

(iii) Time constraints

68. In as much as the investigators will do their research and make their findings based on their research, I believed that as the Acting COO I still had to consult and confirm

